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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,929	11/28/2001	Shinji Yoshida	040894-5745	7277
9629	7590	06/13/2006	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			CHEN, SHIN HON	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/994,929	Applicant(s) YOSHIDA, SHINJI	
	Examiner Shin-Hon Chen	Art Unit 2131	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,2,5-8 and 13-22.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

1. Claims 1-2, 5-8, and 13-22 have been examined.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over “5C Digital Transmission Content Protection White Paper” (hereinafter DTCP) in view of Ueki U.S. Pat. No. 6678236 (hereinafter Ueki).

4. As per claim 1 and 2, DTCP discloses a data reproducing device for reproducing data recorded in a data storing disk, said data reproducing device comprising: a copy protection unit adapted, when an encrypted data over the data storage region of said data storing disk is copied in response to a demand of an external device, to perform an authentication with reference to the copy protection information read by said pickup unit thereby to output the information, as contained in the copy protection information and relating to a secret key, to the external device which is recognized to be correct through the authentication (DTCP: page 1: the 1394 content protection architecture and the DTCP architecture). DTCP does not explicitly disclose a pickup unit for reading a copy protection information which is written in advance as a surface shape such as slits or corrugations in a region over a substrate of said data storing disk other than a data

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storage region. However, Ueki discloses the Content Scrambling System method of content protection which keys required to decrypt the encrypted data are stored on the lead-in area of the disc, which can only read by compliant devices and a secret information is written in advance as the surface shape such as slits or corrugations in the region over a substrate other than a data storage region (Ueki: column 1 lines 20-63; column 8 line 62 – column 9 line 5; and abstract: the copyright protection information and CSS key information are stored in the pre-pits area of the lead-in area). It would have been obvious to one having ordinary skill in the art to store the secret information into the lead-in area of a disk so that only compliant devices that have the license can reproduce the protected data because different content protection architectures proposed by “5C” group can be combined to achieve greater copy protection. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant’s invention to combine the teachings of Ueki within DTCP because lead-in area of the disk is difficult to access.

5. Claim 5-8 and 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueki.

6. As per claim 5 and 6, Ueki discloses a data reproducing device for reproducing data recorded in a data storing disk, comprising: a digital recording/reproducing device for reading a program which is optically recorded in advance in the region over a substrate of a data storing disk other than a data storage region (Ueki: column 1 lines 20-63; column 8 line 62 – column 9 line 5; and abstract: the copyright protection information and CSS key information are stored in the pre-pits area of the lead-in area); and a reproduce control unit for reproducing the program

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recorded in the region, through the optical head at the time of reproducing the data from the region over the substrate of said data storing disk other than the data storage region, and for recording a program or data in the region through said optical head at a data recording time, a secret information is written in advance as the surface shape such as slits or corrugations in the region over a substrate other than a data storage region (Ueki: column 1 lines 20-63; column 8 line 62 – column 9 line 5; and abstract: the copyright protection information and CSS key information are stored in the pre-pits area of the lead-in area). Ueki discloses the Content Scrambling System method of content protection which keys required to decrypt the encrypted data are stored on the lead-in area of the disc, which can only read by compliant devices and the recording/reproducing device will retrieve the CSS key/ content protection information to decrypt the encrypted data. Ueki discloses the content protection method for DVD. However, it would have been obvious to one having ordinary skill in the art to apply the content protection architecture on analog data because digital and analog are interchangeable in modern days and the Digital Transmission Content Protection architecture has been applied to analog device. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to apply the CSS architecture to analog media.

7. As per claim 7 and 8, claims 7 and 8 encompass the same scope as claims 5 and 6. Therefore, claims 7 and 8 are rejected based on the same reasons set forth in claims 5 and 6.

8. As per claim 13 and 14, Ueki as modified discloses the disk according to claims 5 and 7. Ueki as modified further disclose wherein a program is recorded in a region over a substrate

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other than a data storage region (Ueki: column 1 lines 20-63; column 8 line 62 – column 9 line 5; and abstract: the copyright protection information and CSS key information are stored in the pre-pits area of the lead-in area). Ueki does not explicitly disclose magnetically recording. However, it would have been obvious to one having ordinary skill in the art to apply the content protection architecture on analog data because digital and analog are interchangeable in modern days and the Digital Transmission Content Protection architecture has been applied to analog device. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to apply the CSS architecture to analog media.

9. As per claim 15-18, Ueki as modified discloses the disk according to any of the claims 1, 2, 5, 6-8, and 14. Ueki as modified further discloses the secret information is a copy protection information (Ueki: column 1 lines 20-63; column 8 line 62 – column 9 line 5; and abstract: the copyright protection information and CSS key information are stored in the pre-pits area of the lead-in area).

10. As per claim 19-22, Ueki as modified discloses the disk according to any of claims 1, 2, 5, 7, 8, 13 and 14. Ueki as modified further discloses wherein a program or data is capable of being recorded/reproduced in/from the region over said substrate other than the data storage location (Ueki: column 1 lines 20-63; column 8 line 62 – column 9 line 5; and abstract: the copyright protection information and CSS key information are stored in the pre-pits area of the lead-in area). Ueki does not explicitly disclose magnetically recording. However, it would have been obvious to one having ordinary skill in the art to apply the content protection architecture

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on analog data because digital and analog are interchangeable in modern days and the Digital Transmission Content Protection architecture has been applied to analog device. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to apply the CSS architecture to analog media.

Response to Arguments

11. Applicant's arguments filed on 5/22/06 have been fully considered but they are not persuasive.

Regarding applicant's remarks, applicant argues the references do not disclose recording copy protection information in advance as a surface shape such as slits or corrugations in a region over substrate of said data storing disk other than a data storage system. However, Ueki explicitly discloses storing copy protection information in lead-in areas which include pre-pit area with certain depth (Ueki: figure 7 and 9). Therefore, applicant's argument is respectfully traversed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shin-Hon Chen whose telephone number is (571) 272-3789. The examiner can normally be reached on Monday through Friday 8:30am to 5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shin-Hon Chen
Examiner
Art Unit 2131

SC


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